IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24167 of 2004

Between:

J.Mangu, S/o.Tharya,
R/o.Sarlapalli, Post: Mucharla, Mandal, Kandukoor, R.R.District.

..... PETITIONER

AND

1 The Regional Manager (HCR), APSRTC, J.B.S., Secunderabad.
2 The Divisional Manager, (Hyderabad Division), APSRTC, C.B.S.,

Gowliguda, Hyderabad.
3 The Depot Manager, APSRTC, Bus Depot, Ibrahimpatnam, R.R.District.
4 The Depot Manager, APSRTC, Bus Depot, Hayathnagar, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of certiorari, quash the proc.No.PA/19(113)/02 DVM - H dt.10-12-2002 in so far as not granting back wages for the out of service period, deferring annual grade increments for a period of (2) years with cumulative effect and treating the period of interregnum of period of removal as not on duty i.e., 09-08-2002 to 27-12-2002 and consequential order of 1st respondent proc.No.PA/20(111)03-HCR dt.10-11-2003 in rejecting the review as arbitrary, unjust, in violation of Art. 14, 16 & 21 of the Constitution of India and consequently direct the respondents to pay the back wages along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondents :V.T.M.PRASAD S.C. FOR APSRTC

The Court made the following :

O R D E R:

The writ petition is filed challenging the proceedings No. PA/19/(113)/02DVM-H, dated 10-12-2002 issued by the 2nd respondent.

The petitioner joined in the respondents' corporation as conductor in 1989. The respondents are the officials of the Andhra Pradesh Road Transport Corporation (APSRTC). It is stated that while the petitioner was performing the duty as a conductor of the bus bearing No.2140 on route Mall to Hyderabad, the Checking Officials of RES/HCR conducted a surprise check on 21-04-2002 at about 19-10 hours and detected certain serious cash and ticket irregularities committed by him. The checking officials issued a charge memo to the petitioner and obtained his explanation on the spot. However, the 4th respondent-Depot Manager,Hayathnagar suspended the petitioner from service and issued a charge sheet alleging that despite collecting the requisite fare of Rs.3/- from the passenger who boarded at Gandlaguda found alighting without ticket at Yacharam ex-stage 12/11 to 11 and thereby the petitioner u/Reg. 28 (vi-a) of APSRTC Employees Conduct Reg, 1963, committed misconduct while he was on duty as Conductor of the bus. Challenging the same, the petitioner preferred an appeal before the 2nd respondent. The 2nd respondent-Divisional Manager by the impugned proceedings reinstated the petitioner into service as conductor Gr.II and ordered punishment of deferment of annual increment for a period of two years, which shall have effect on his future increments by treating the period from the date of removal to till reporting at Hayatnagar as 'Not on duty 'for all purposes. Aggrieved by the same, the present writ petition has been filed by the petitioner.

Heard both sides.

Learned counsel for the petitioner submitted that admittedly the place of check and the place of boarding of the passenger is within Yacharam and that the bus was checked earlier to the alighting point. It is further contended that at the time of check, while the petitioner was on duty as conductor of the bus and issuing tickets to the passengers, the Travelling Ticket Inspector boarded the bus and prevented him. Therefore, the punishment imposed was not proportionate to the proved

misconduct on the part of the petitioner and hence the impugned order requires modification.

On the other hand, the learned standing Counsel for the respondents opposed the same on the ground that the charge leveled against the petitioner was held proved beyond all reasonable doubt. Since it is the first and foremost duty of the petitioner as a conductor of the bus issuing tickets and collecting fair from the passenger, there are no grounds to interfere with the impugned proceedings.

I have perused the material available on record.

The 2nd respondent-Divisional Manager considering the facts and circumstances of the case and the personal record of the petitioner, by the impugned proceedings reinstated the petitioner into service imposing punishment of deferment of annual increment for a period of two years which shall have the effect on his future increments by treating the period from the date of removal to till reporting at Hayatnaqgar as not on duty for all purposes.

As seen from the impugned proceedings, it is not in dispute that at the time of check, the petitioner being conductor of the bus, collected the fare of Rs.3/- from the passenger in question and while he was in the act of issuing ticket to the said passenger, the checking officials boarded the bus and prevented him and that the boarding place of the passenger in question i.e. Gandlaguda and check took place i.e. Yacharam New Bus station was very nearer. It is further stated that petitioner had closed the trip sheet at stage No.11-Yacharam. To clear the clouds, the statement of the passenger in question can be taken into consideration. The said statement corroborates the version of the petitioner.

In view of the same, I am of the considered view that the punishment imposed by the appellate authority is disproportionate to the proved misconduct. Therefore, the order of punishment imposed by the appellate authority i.e. 2nd respondent-Divisional Manager is slightly modified to the extent of deferment of annual increment for a period of two years without cumulative effect. In view of the said modification, the petitioner is not entitled to any monetary benefits. Further the respondents' authorities are directed to treat the date of removal till the date of reinstatement of the petitioner as 'on duty' for all purposes without any wages.

With the above direction, the writ petition is disposed of. No costs.

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03-02-2005

Mjl/*

To,

1 The Regional Manager (HCR), APSRTC, J.B.S., Secunderabad.
2 The Divisional Manager, (Hyderabad Division), APSRTC, C.B.S.,

Gowliguda, Hyderabad.
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